

MEMORANDUM

Agenda Item No. 6(B)

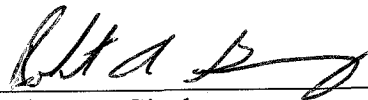
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: March 1, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance relating to
Office of Inspector
General

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Natacha Seijas, Commissioner Bruno A. Barreiro, Dr. Barbara Carey-Shuler, Commissioner Sally A. Heyman, Commissioner Dennis C. Moss and Commissioner Rebeca Sosa.



Robert A. Ginsburg
County Attorney

RAG/bw

Memorandum



Date: March 1, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess", written over the printed name of George M. Burgess.

Subject: Ordinance relating to Office of Inspector General

This ordinance relating to Office of Inspector General will have no fiscal impact on the County.

Fiscal00905




MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: March 1, 2005

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(B)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor

Agenda Item No. 6(B)

Veto _____

3-1-05

Override _____

ORDINANCE NO. _____

ORDINANCE RELATING TO OFFICE OF INSPECTOR GENERAL; AMENDING SECTION 2-1076 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, RELATING TO APPOINTMENT, REMOVAL, TERM AND POWERS OF INSPECTOR GENERAL; AMENDING INSPECTOR GENERAL CONTRACT FEE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-1076 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-1076. Office of the Inspector General.

- (a) *Created and established.* There is hereby created and established the Office of Miami-Dade County Inspector General. >>The Inspector General shall head the Office. The organization and administration of the Office of the Inspector General shall be sufficiently independent to assure that no interference or influence external to the Office adversely affects the independence and objectivity of the Inspector General.<< ~~[[The Inspector General shall be appointed by the Ethics Commission. The Ethics Commission may remove the Inspector General from office at will upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Ethics Commission.]]~~

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(b) >>Minimum Qualifications, Appointment and Term of Office.

(1)<<Minimum qualifications. The Inspector General shall be a person who:

[[(+)]>>(a)<<Has at least ten (10) years of experience >>in any one, or combination of, the following fields:

(i)<<as a Federal >>, << [[ø]] State >>or local<< Law Enforcement Officer;

>>(ii) as a Federal or State court judge;

(iii) as a Federal, State or local government attorney;

(iv) progressive supervisory experience in an investigative public agency similar to an inspector general's office;<<

[[(+)]>>(b)<<Has managed and completed complex investigations involving allegations of fraud, theft, deception and conspiracy;

[[(+)]>>(c)<<Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary; and

[[(+)]>>(d)<<Has a four-year degree from an accredited institution of higher learning.

>>(2) Appointment. The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee ("Selection Committee"), except that before any appointment shall become effective, the appointment must be approved by a majority of the whole number of members of the Board of County Commissioners at the next regularly scheduled County Commission meeting after the appointment. In the event that the appointment is disapproved by the County Commission, the appointment shall become null

and void, and the Selection Committee shall make a new appointment, which shall likewise be submitted for approval by the County Commission. The Selection Committee shall be composed of four members selected as follows:

- (a) The State Attorney of the Eleventh Judicial Circuit for Miami-Dade County;
- (b) The Public Defender of the Eleventh Judicial Circuit for Miami-Dade County;
- (c) The Chairperson of the Miami-Dade Commission on Ethics and Public Trust; and
- (d) The President of the Miami-Dade Police Chief's Association.

The members of the Selection Committee shall elect a chairperson who shall serve as chairperson until the Inspector General is appointed. The Selection Committee shall select the Inspector General from a list of qualified candidates submitted by the Miami-Dade County Employee Relations Department.

- (3) Term. The Inspector General shall be appointed for a term of four (4) years. In case of a vacancy in the position of Inspector General, the Chairperson of the Board of County Commissioners may appoint the deputy inspector general, assistant inspector general, or other Inspector General's office management personnel as interim Inspector General until such time as a successor Inspector General is appointed in the same manner as described in subsection (b)(2) above. The Commission may by majority vote of members present disapprove of the interim appointment made by the Chairperson at the next regularly scheduled County Commission meeting after the appointment. In the event such appointment shall be disapproved by the County Commission, the appointment shall become null and void and, prior to the next regularly scheduled Commission meeting, the Chairperson shall make a new appointment which shall likewise be subject to

disapproval as provided in this subsection (3). Any successor appointment made by the Selection Committee as provided in subsection (b)(2) shall be for the full four-year term.

Upon expiration of the term, the Board of County Commissioners may by majority vote of members present reappoint the Inspector General to another term. In lieu of reappointment, the Board of County Commissioners may reconvene the Selection Committee to appoint the new Inspector General in the same manner as described in subsection (b)(2). The incumbent Inspector General may submit his or her name as a candidate to be considered for selection and appointment.

- (4) Staffing of Selection Committee The Miami-Dade County Employee Relations Department shall provide staffing to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General and shall provide the Selection Committee with a list of qualified candidates. The County Employee Relations Department shall also be responsible for ensuring that background checks are conducted on the slate of candidates selected for interview by the Selection Committee. The County Employee Relations Department may refer the background checks to another agency or department. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates.

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- (c) Contract. The Director of the Employee Relations Department shall, in consultation with the County Attorney, negotiate a contract of employment with the Inspector General, except that before any contract shall become effective, the contract must be approved by a majority of Commissioners present at a regularly scheduled Commission meeting.<<

[[~~(e)~~]]>>(d)<<Functions, authority and powers.

- (1) The Office shall have the authority >>to make investigations of county affairs<< and >>the<<

power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts and transactions.

* * *

- (5) The Office shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, >>audits, inspections, investigations<< or analyses >>relating to<< ~~[[including, but not limited to, the performance of audits of]]~~ departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust;
- (6) The Inspector General may, on a random basis, perform audits>>, inspections and reviews of<< ~~[[on]]~~ all County contracts, ~~[[except as otherwise expressly provided in this Subsection (e)(6), throughout the duration of said contracts (hereinafter "random audits"). The Inspector General may retain an Independent Private Sector Inspector General as provided in Section 2-1076(e)(8) to perform random audits as provided for herein.]]~~ The cost of random audits>>, inspections and reviews<< shall>>, except as provided in (a)-(n) in this subsection (6),<< be incorporated into the contract price of all contracts and shall be one quarter (1/4) of one (1) percent of the contract price >>(hereinafter "IG contract fee")<<. The >>IG contract fee<< ~~[[provisions of this Subsection (e)(6)]]~~ shall not apply to the following contracts:

- (a) IPSIG contracts;
- (b) Contracts for legal services;
- (c) Contracts for financial advisory services;
- (d) Auditing contracts;
- (e) Facility rentals and lease agreements;

- (f) Concessions and other rental agreements;
- (g) Insurance contracts;
- (h) Revenue-generating contracts;
- (i) Contracts where an IPSIG is assigned at the time the contract is approved by the Commission;
- (j) Professional service agreements under one thousand dollars (\$1,000.00);
- (k) Management agreements;
- (l) Small purchase orders as defined in Administrative Order 3-2;
- (m) Federal, state and local government-funded grants; and
- (n) Interlocal agreements.

Notwithstanding the foregoing, the Commission may by resolution specifically authorize the inclusion of >>the IG contract fee<< ~~[[a random audit provision, including the one quarter (1/4) of one (1) percent assessment,]]~~ in any contract. Nothing contained in this Subsection (c)(6) shall in any way limit the powers of the Inspector General provided for in >>this Section<< ~~[[Subsections 2-1076(e)(1), 2-1076(e)(5) and 2-1076(e)(8)]]~~ to perform audits>>, inspections, reviews and investigations<< on all county contracts including, but not limited to, those contracts specifically exempted from the >>IG contract fee<< ~~[[provisions of this Subsection (e)(6)]]~~.

- (7) Where the Inspector General detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies. >>Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation.<< When the Inspector General detects a violation of one (1)

of the ordinances within the jurisdiction of the Ethics Commission, he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate;

- (8) The >>Inspector General<< ~~[[Office]]~~ shall have the power to ~~[[retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) who may be engaged to]]~~ audit, investigate, monitor, oversee, inspect and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. ~~[[Where the IPSIG detects corruption or fraud, he or she shall notify the appropriate law enforcement agencies;]]~~
- (9) The Inspector General shall have the power to review and investigate any citizen's complaints regarding County or Public Health Trust projects, programs, contracts or transactions>>.<<[[;and]]
- (10) The Inspector General ~~[[shall upon his or her own initiative, or upon instructions from the Ethics Commission;]]~~ >>may<< exercise any of the powers contained in Section 2-1076>> upon his or her own initiative<<.

* * *

- >>(12) The Inspector General shall have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are needed to perform the duties and functions enumerated in subsection (d) herein.<<

~~[[({d})]]>>(e)<< Physical facilities and staff. [[The Ethics Commission shall provide the Office with sufficient space to enable it to perform its functions. The Ethics Commission shall provide legal counsel and representation for the Office. The Inspector General shall, subject to budgetary allocation by the Board of County Commissioners, have the authority to employ sufficient staff to enable the Office to perform its functions.]]~~

>>1. The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office supplies, equipment and furnishings to enable the Office to perform its functions.

2. The Inspector General shall have, subject to budgetary allocation by the Board of County Commissioners, the power to appoint, employ, and remove such assistants, employees and personnel and establish personnel procedures as deemed necessary for the efficient and effective administration of the activities of the Office.<<

~~[[({e}) Abolition of the Office. The Office of Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.]]~~

(f) *Procedure for finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected.* Notwithstanding any other provision of this Code, whenever the Inspector General concludes a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person or entity shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this subsection (f) shall not apply when the Inspector General, in conjunction with the State Attorney, determines that supplying the

affected person or entity with such report will jeopardize a pending criminal investigation.

- >>(g) Reporting. The Inspector General shall annually prepare and submit to the Mayor and Board of County Commissioners a written report concerning the work and activities of the Office including, but not limited to, statistical information regarding the disposition of closed investigations, audits and other reviews.
- (h) Removal. The Inspector General may be removed from office upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.
- (i) Abolition of the Office. The Office of Inspector General shall only be abolished upon the affirmative vote of two-thirds (2/3) of the whole number of members of the Board of County Commissioners.
- (j) Effective Term. The incumbent Inspector General shall, subject to the execution and approval of a contract of employment as provided in subsection (c), commence a four-year term of office upon the effective date of this ordinance.<<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

RA6

Prepared by:

GKS

Gerald K. Sanchez

Sponsored by Commissioner Natacha Seijas,
Commissioner Bruno A. Barreiro,
Dr. Barbara Carey-Shuler,
Commissioner Sally A. Heyman,
Commissioner Dennis C. Moss and
Commissioner Rebeca Sosa